

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2853 of 1987

For Approval and Signature:

Hon'ble MR.JUSTICE D.H.WAGHELA Sd/-

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge? : NO
1 to 5 : No

A M SHAH

Versus

COMMISSIONER

Appearance:

MR DM THAKKAR for Petitioner

MR BP TANNA for Respondent No. 1

CORAM : MR.JUSTICE D.H.WAGHELA

Date of decision: 23/11/1999

ORAL JUDGEMENT

Heard the learned Counsels for the petitioner and
the respondent.

2. The petitioner seeks relief of parity of wages
with the medical officers appointed in various
departments of the Government. It is an admitted fact
that the petitioner was appointed as and serving as a
Medical Officer in the establishment of the respondent

Municipal Corporation in the pay scale of Rs.500-900. It is also admitted that the petitioner possesses the qualification of D.A.S.F., while the medical officers appointed in various departments of the Government are qualified M.B.B.S. medical officers. It is submitted that such M.B.B.S. medical officers were getting their salaries in the pay scale of Rs.700-1300. It is contended that the nature of work and the duties being discharged by the petitioner and other similarly situated medical officers in various departments of the Government are same. Thus, on the principle of 'equal pay for equal work', the petitioner has claimed parity in the pay scale.

3. It is further submitted on behalf of the petitioner that a Commission was appointed to examine the pay fixation of the employees working in the Municipal Corporation and the said Commission had recommended that the pay scales of the medical officers of the Municipal Corporation should be revised to Rs.700-1300 at par with the other medical officers serving in other Government departments. The petitioner has made representations to the respondent and the Commissioner of the Municipal Corporation had also made recommendations to the Standing Committee to revise the pay scales of the medical officers. However, as the pay scales were not suitably revised, the petitioner has approached this Court for an appropriate writ to order the respondent to revise the pay scales. The respondent has not controverted any of the factual contentions by filing any affidavit or otherwise.

4. It is submitted by the learned advocate of the respondent that the principle of 'equal pay for equal work' does not apply in cases where classification is made on the basis of qualifications. Relying on the judgment of the Supreme Court in SUPREME COURT EMPLOYEES WELFARE ASSOCIATION v. UNION OF INDIA (AIR 1990 SC 334), it is submitted that, if a classification is proper and reasonable and has a nexus to the object sought to be achieved, the doctrine of 'equal pay for equal work' will not have any application even though the persons doing the same work are not getting the same pay. Reliance is also placed on the judgment in SHYAM BABU VERMA & OTHERS v. UOI [(1994) 2 SCC 521] in which it is categorically observed that, "The nature of work may be more or less the same, but scale of pay may vary based on academic qualification or experience which justifies classification. The principle of 'equal pay for equal work' should not be applied in a mechanical or casual manner. Classification made by a body of experts after

full study and analysis of the work should not be disturbed except for strong reasons which indicate the classification made to be unreasonable. Inequality of the men in different groups excludes applicability of the principle of 'equal pay for equal work' to them. The principle of 'equal pay for equal work' has been examined in STATE OF M.P. v. PRAMOD BHARTIYA by this Court. Before any direction is issued by the Court, the claimants have to establish that there was no reasonable basis to treat them separately in matters of payment of wages or salary. Then only it can be held that there has been a discrimination within the meaning of Article 14 of the Constitution of India."

5. It is not the case of the petitioner that equally qualified medical officers within the establishment of the respondent were given different pay scales. The petitioner alleges discrimination among the less qualified medical officers appointed under the respondent and the more qualified medical officers appointed in several departments of the Government. In view of the aforesaid observations of the Supreme Court, the principle of 'equal pay for equal work' cannot be applied in the facts of the present case. Therefore, it is held that there is no discrimination or violation of Articles 14 and 16 of the Constitution of India as alleged by the petitioner.

6. The petition is therefore rejected. Rule is discharged with no order as to costs.

Sd/-

(KMG Thilake)

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